

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

KENNETH RICHARD ROWELL,

Defendant.

No. 2:13-CR-6070-WFN-1

ORDER RE: SCHEDULE
FOR SENTENCING

On this day, Defendant, accompanied by his attorney, Rick Hoffman, appeared and entered his plea of guilty. The Government was represented by Assistant United States Attorney Alexander Ekstrom. Accordingly,

IT IS ORDERED that:

1. Sentencing shall be held **May 19, 2014 at 10:00 a.m., in Yakima**, Washington. Pending sentencing Defendant shall be **DETAINED** pursuant to this Court's previous Order.

2. The United States Probation Officer shall prepare a timely presentence investigation report which will comply with the following schedule:

(a) Not less than **35 days prior to the date set for sentencing**, the Probation Officer shall disclose the presentence investigation report to counsel for Defendant and the Government. Within **14 days thereafter**, counsel shall communicate in writing to the probation office any objections they may have as to any factual errors or omissions; sentencing classifications; sentencing guideline ranges; and policy statements contained in or omitted from the report. Such communication may be oral initially, but shall immediately be confirmed in writing to the Probation Officer and opposing counsel.

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1 Objections shall be numbered and identify the paragraph(s) to which the
2 objection applies. Objections shall address the PSR in sequential order, beginning with the
3 lowest numbered paragraph.

4 (b) After receiving counsel's objections, the Probation Officer shall conduct
5 any further investigation and make any revisions to the presentence report that may be
6 necessary. The Probation Officer may require counsel for both parties to meet with the
7 officer to discuss unresolved factual and legal issues and counsel shall make themselves
8 available for that purpose.

9 (c) At least **10 days prior to the date of the sentencing hearing**, the
10 Probation Officer shall submit the presentence report to the sentencing judge. The report
11 shall be accompanied by an addendum setting forth any objections counsel may have
12 made, including those that have not been resolved, together with the officer's comments
13 and recommendations thereon. The Probation Officer shall certify that the contents of the
14 report, other than sentencing recommendations, including any revisions or addenda, have
15 been disclosed to counsel for the Defendant and the Government, and that the addendum
16 fairly states any remaining objections.

17 (d) Except with regard to any written objection made under sub-division (a),
18 the report of the presentence investigation and computations shall be accepted by the Court
19 as accurate. Upon a timely objection by the Defendant, the Government bears the burden
20 of proof on any fact that is necessary to establish the base offense level. The Court,
21 however, for good cause shown, may allow a new objection to be raised at any time before
22 the imposition of sentence. In resolving disputed issues of fact, the Court may consider
23 any reliable information presented by the Probation Officer, the Defendant, or the
24 Government.

25 (e) Nothing in this Order requires the disclosure of any portions of the PSR
26 that are not disclosable under Rule 32 of the Federal Rules of Criminal Procedure.

27 (f) The presentence report shall be deemed to have been disclosed: (1) when a
28 copy of the report is physically delivered; or (2) one day after the report's availability for

1 inspection is orally communicated; or (3) three days after a copy of the report or notice of
2 its availability is mailed to counsel, whichever date is earlier.

3 (g) **Any memorandum or motion** regarding sentencing must be filed and
4 served at least **15 days prior to the date set for sentencing**. The opposing party shall file
5 and serve a response, if any, **within 7 days** of receipt of the motion.

6 (h) If it is determined that the Defendant may qualify for the safety valve
7 (5C1.2), the parties must schedule a meeting to conduct a safety valve interview to
8 determine if the Defendant has met the requirements of U.S.S.G. § 5C1.2(a)(5) **no later**
9 **than 10 days prior to the sentencing hearing**. Counsel may request a continuance of the
10 sentencing hearing if the ends of justice so require.

11 The District Court Executive is directed to file this Order and provide copies to
12 counsel **AND TO** the United States Probation Office.

13 **DATED** this 24th day of February, 2014.

14
15 s/ Wm. Fremming Nielsen

16 WM. FREMMING NIELSEN

17 SENIOR UNITED STATES DISTRICT JUDGE

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